

**Introduced by Senator Wieckowski**

February 25, 2015

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An act to amend Section 640 of the Penal Code, and to amend Section 99580 of the Public Utilities Code, relating to public transit.

LEGISLATIVE COUNSEL'S DIGEST

SB 413, as introduced, Wieckowski. Public transit: prohibited conduct.

Existing law makes it a crime, punishable as an infraction or misdemeanor, as specified, for person to commit certain acts on or in a facility or vehicle of a public transportation system, including disturbing another person by loud or unreasonable noise.

This bill would restate this provision so that it would apply to a person failing to comply with the warning of a transit official related to disturbing another person by loud and unreasonable noise, and also to a person playing sound equipment on or in a public transportation system facility or vehicle. By revising the definition of a crime, the bill would thereby impose a state-mandated local program.

Existing law also authorizes a public transportation agency to adopt an ordinance to impose and enforce civil administrative penalties for certain passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing. Existing law requires the ordinance to include the statutory provisions governing the administrative penalties.

This bill would authorize these administrative penalties to also apply to a person failing to comply with the warning of a transit official related

to disturbing another person by loud and unreasonable noise, and to a person failing to yield seating reserved for an elderly or disabled person. The bill would authorize the administrative penalties to be applied to minors and would delete the requirement for the ordinance to include the statutory provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 640 of the Penal Code is amended to  
2     read:  
3     640. (a) (1) Any of the acts described in paragraphs (1) to (6),  
4     inclusive, of subdivision (b) is an infraction punishable by a fine  
5     not to exceed two hundred fifty dollars (\$250) and by community  
6     service for a total time not to exceed 48 hours over a period not to  
7     exceed 30 days, during a time other than during the violator's hours  
8     of school attendance or employment. Any of the acts described in  
9     paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or  
10    second violation, is an infraction punishable by a fine not to exceed  
11    two hundred fifty dollars (\$250) and by community service for a  
12    total time not to exceed 48 hours over a period not to exceed 30  
13    days, during a time other than during the violator's hours of school  
14    attendance or employment. A third or subsequent violation of any  
15    of the acts described in paragraphs (1) to (3), inclusive, of  
16    subdivision (c) is a misdemeanor punishable by a fine of not more  
17    than four hundred dollars (\$400) or by imprisonment in a county  
18    jail for a period of not more than 90 days, or by both that fine and  
19    imprisonment. Any of the acts described in subdivision (d) shall  
20    be punishable by a fine of not more than four hundred dollars  
21    (\$400), by imprisonment in a county jail for a period of not more  
22    than 90 days, or by both that fine and imprisonment.  
23    (2) This section shall apply only to acts committed on or in a  
24    facility or vehicle of a public transportation system.

1 (b) (1) Eating or drinking in or on a system facility or vehicle  
2 in areas where those activities are prohibited by that system.

3 (2) ~~Disturbing—~~*Playing sound equipment on or in a system*  
4 *facility or vehicle, or failing to comply with the warning of a transit*  
5 *official related to disturbing* another person by loud or  
6 unreasonable noise.

7 (3) Smoking in or on a system facility or vehicle in areas where  
8 those activities are prohibited by that system.

9 (4) Expectorating upon a system facility or vehicle.

10 (5) Skateboarding, roller skating, bicycle riding, roller blading,  
11 or operating a motorized scooter or similar device, as defined in  
12 Section 407.5 of the Vehicle Code in a system facility, vehicle, or  
13 parking structure. This paragraph does not apply to an activity that  
14 is necessary for utilization of the transit facility by a bicyclist,  
15 including, but not limited to, an activity that is necessary for  
16 parking a bicycle or transporting a bicycle aboard a transit vehicle,  
17 if that activity is conducted with the permission of the transit  
18 agency in a manner that does not interfere with the safety of the  
19 bicyclist or other patrons of the transit facility.

20 (6) ~~Sale—~~*Selling or peddling of any goods, merchandise, property,*  
21 *or services of any kind whatsoever on the facilities, vehicles, or*  
22 *property of the public transportation system, if the public*  
23 *transportation system has prohibited those acts and neither the*  
24 *public transportation system nor its duly authorized representatives*  
25 *have granted written consent to engage in those acts.*

26 (c) (1) Evasion of the payment of a fare of the system. For  
27 purposes of this section, fare evasion includes entering an enclosed  
28 area of a public transit facility beyond posted signs prohibiting  
29 entrance without obtaining valid fare, in addition to entering a  
30 transit vehicle without valid fare.

31 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
32 evade the payment of a fare.

33 (3) (A) Unauthorized use of a discount ticket or failure to  
34 present, upon request from a transit system representative,  
35 acceptable proof of eligibility to use a discount ticket, in  
36 accordance with Section 99155 of the Public Utilities Code and  
37 posted system identification policies when entering or exiting a  
38 transit station or vehicle. Acceptable proof of eligibility must be  
39 clearly defined in the posting.

1 (B) In the event that an eligible discount ticket user is not in  
2 possession of acceptable proof at the time of request, any citation  
3 issued shall be held for a period of 72 hours to allow the user to  
4 produce acceptable proof. If the proof is provided, the citation  
5 shall be voided. If the proof is not produced within that time period,  
6 the citation shall be processed.

7 (d) (1) Willfully disturbing others on or in a system facility or  
8 vehicle by engaging in boisterous or unruly behavior.

9 (2) Carrying an explosive, acid, or flammable liquid in a public  
10 transit facility or vehicle.

11 (3) Urinating or defecating in a system facility or vehicle, except  
12 in a lavatory. However, this paragraph shall not apply to a person  
13 who cannot comply with this paragraph as a result of a disability,  
14 age, or a medical condition.

15 (4) Willfully blocking the free movement of another person in  
16 a system facility or vehicle. This paragraph shall not be interpreted  
17 to affect any lawful activities permitted or First Amendment rights  
18 protected under the laws of this state or applicable federal law,  
19 including, but not limited to, laws related to collective bargaining,  
20 labor relations, or labor disputes.

21 (5) Willfully tampering with, removing, displacing, injuring,  
22 or destroying any part of any facility or vehicle of a public  
23 transportation system.

24 (e) Notwithstanding subdivision (a), a public transportation  
25 agency, as defined in paragraph (4) of subdivision (c) of Section  
26 99580 of the Public Utilities Code, may enact and enforce an  
27 ordinance providing that a person who is the subject of a citation  
28 for any of the acts described in subdivision (b) of Section 99580  
29 of the Public Utilities Code on or in a facility or vehicle described  
30 in subdivision (a) for which the public transportation agency has  
31 jurisdiction shall, under the circumstances set forth by the  
32 ordinance, be afforded an opportunity to complete an administrative  
33 process that imposes only an administrative penalty enforced in a  
34 civil proceeding. The ordinance for imposing and enforcing the  
35 administrative penalty shall be governed by Chapter 8  
36 (commencing with Section 99580) of Part 11 of Division 10 of  
37 the Public Utilities Code ~~and shall not apply to minors.~~

38 (f) For purposes of this section, a “facility or vehicle of a public  
39 transportation system” means any of the following:

1 (1) A facility or vehicle of a public transportation system as  
2 defined by Section 99211 of the Public Utilities Code.

3 (2) A facility of, or vehicle operated by any entity subsidized  
4 by, the Department of Transportation.

5 (3) A facility or vehicle of the Southern California Regional  
6 Rail Authority, whether owned or leased.

7 (4) A leased or rented facility or vehicle for which any of the  
8 entities described in paragraph (1), (2), or (3) incurs costs of  
9 cleanup, repair, or replacement as a result of any of those acts.

10 SEC. 2. Section 99580 of the Public Utilities Code is amended  
11 to read:

12 99580. (a) Pursuant to subdivision (e) of Section 640 of the  
13 Penal Code, a public transportation agency may enact and enforce  
14 an ordinance to impose and enforce an administrative penalty for  
15 any of the acts described in subdivision (b). ~~The ordinance shall~~  
16 ~~include the provisions of this chapter and shall not apply to minors.~~

17 (b) (1) Evasion of the payment of a fare of the system.

18 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
19 evade the payment of a fare.

20 (3) Playing sound equipment on or in a system facility or  
21 vehicle, *or failing to comply with the warning of a transit official*  
22 *related to disturbing another person by loud or unreasonable*  
23 *noise.*

24 (4) Smoking, eating, or drinking in or on a system facility or  
25 vehicle in those areas where those activities are prohibited by that  
26 system.

27 (5) Expectorating upon a system facility or vehicle.

28 (6) Willfully disturbing others on or in a system facility or  
29 vehicle by engaging in boisterous or unruly behavior.

30 (7) Carrying an explosive or acid, flammable liquid, or toxic or  
31 hazardous material in a system facility or vehicle.

32 (8) Urinating or defecating in a system facility or vehicle, except  
33 in a lavatory. However, this paragraph shall not apply to a person  
34 who cannot comply with this paragraph as a result of a disability,  
35 age, or a medical condition.

36 (9) (A) Willfully blocking the free movement of another person  
37 in a system facility or vehicle.

38 (B) This paragraph shall not be interpreted to affect any lawful  
39 activities permitted or first amendment rights protected under the  
40 laws of this state or applicable federal law, including, but not

1 limited to, laws related to collective bargaining, labor relations,  
2 or labor disputes.

3 (10) Skateboarding, roller skating, bicycle riding, or roller  
4 blading in a system facility, including a parking structure, or in a  
5 system vehicle. This paragraph does not apply to an activity that  
6 is necessary for utilization of a system facility by a bicyclist,  
7 including, but not limited to, an activity that is necessary for  
8 parking a bicycle or transporting a bicycle aboard a system vehicle,  
9 if that activity is conducted with the permission of the agency of  
10 the system in a manner that does not interfere with the safety of  
11 the bicyclist or other patrons of the system facility.

12 (11) (A) Unauthorized use of a discount ticket or failure to  
13 present, upon request from a system representative, acceptable  
14 proof of eligibility to use a discount ticket, in accordance with  
15 Section 99155, and posted system identification policies when  
16 entering or exiting a system station or vehicle. Acceptable proof  
17 of eligibility must be clearly defined in the posting.

18 (B) In the event that an eligible discount ticket user is not in  
19 possession of acceptable proof at the time of request, an issued  
20 notice of fare evasion or passenger conduct violation shall be held  
21 for a period of 72 hours to allow the user to produce acceptable  
22 proof. If the proof is provided, that notice shall be voided. If the  
23 proof is not produced within that time period, that notice shall be  
24 processed.

25 (12) ~~Sale~~*Selling* or peddling~~—of~~ any goods, merchandise,  
26 property, or services of any kind whatsoever on the facilities,  
27 vehicles, or property of the public transportation system without  
28 the express written consent of the public transportation system or  
29 its duly authorized representatives.

30 (13) *Failing to yield seating reserved for an elderly or disabled*  
31 *person.*

32 (c) (1) The public transportation agency may contract with a  
33 private vendor or governmental agency for the processing of notices  
34 of fare evasion or passenger conduct violation, and notices of  
35 delinquent fare evasion or passenger conduct violation pursuant  
36 to Section 99581.

37 (2) For the purpose of this chapter, “processing agency” means  
38 either of the following:

1 (A) The agency issuing the notice of fare evasion or passenger  
2 conduct violation and the notice of delinquent fare evasion or  
3 passenger conduct violation.

4 (B) The party responsible for processing the notice of fare  
5 evasion or passenger conduct violation and the notice of delinquent  
6 violation, if a contract is entered into pursuant to paragraph (1).

7 (3) For the purpose of this chapter, “fare evasion or passenger  
8 conduct violation penalty” includes, but is not limited to, a late  
9 payment penalty, administrative fee, fine, assessment, and costs  
10 of collection as provided for in the ordinance.

11 (4) For the purpose of this chapter, “public transportation  
12 agency” shall mean a public agency that provides public  
13 transportation as defined in paragraph (1) of subdivision (f) of  
14 Section 1 of Article XIX A of the California Constitution.

15 (5) All fare evasion and passenger conduct violation penalties  
16 collected pursuant to this chapter shall be deposited in the general  
17 fund of the county in which the citation is administered.

18 (d) (1) If a fare evasion or passenger conduct violation is  
19 observed by a person authorized to enforce the ordinance, a notice  
20 of fare evasion or passenger conduct violation shall be issued. The  
21 notice shall set forth the violation, including reference to the  
22 ordinance setting forth the administrative penalty, the date of the  
23 violation, the approximate time, and the location where the  
24 violation occurred. The notice shall include a printed statement  
25 indicating the date payment is required to be made, and the  
26 procedure for contesting the notice. The notice shall be served by  
27 personal service upon the violator. The notice, or copy of the  
28 notice, shall be considered a record kept in the ordinary course of  
29 business of the issuing agency and the processing agency, and  
30 shall be prima facie evidence of the facts contained in the notice  
31 establishing a rebuttable presumption affecting the burden of  
32 producing evidence.

33 (2) When a notice of fare evasion or passenger conduct violation  
34 has been served, the person issuing the notice shall file the notice  
35 with the processing agency.

36 (3) If, after a notice of fare evasion or passenger conduct  
37 violation is issued pursuant to this section, the issuing officer  
38 determines that there is incorrect data on the notice, including, but  
39 not limited to, the date or time, the issuing officer may indicate in  
40 writing on a form attached to the original notice the necessary

1 correction to allow for the timely entry of the corrected notice on  
2 the processing agency's data system. A copy of the correction shall  
3 be mailed to the address provided by the person cited at the time  
4 the original notice of fare evasion or passenger conduct violation  
5 was served.

6 (4) If a person contests a notice of fare evasion or passenger  
7 conduct violation, the issuing agency shall proceed in accordance  
8 with Section 99581.

9 (e) In setting the amounts of administrative penalties for the  
10 violations listed in subdivision (b), the public transportation agency  
11 shall not establish penalty amounts that exceed the maximum fine  
12 amount set forth in Section 640 of the Penal Code.

13 (f) A person who receives a notice of fare evasion or passenger  
14 conduct violation pursuant to this section shall not be subject to  
15 citation for a violation of Section 640 of the Penal Code.

16 (g) If an entity enacts an ordinance pursuant to this section it  
17 shall, both two years and five years after enactment of the  
18 ordinance, report all of the following information to the Senate  
19 Committee on Transportation and Housing and the Assembly  
20 Committee on Transportation:

21 (1) A description of the ordinance, including the circumstances  
22 under which an alleged violator is afforded the opportunity to  
23 complete the administrative process.

24 (2) The amount of the administrative penalties.

25 (3) The number and types of citations administered pursuant to  
26 the ordinance.

27 (4) To the extent available, a comparison of the number and  
28 types of citations administered pursuant to the ordinance with the  
29 number and types of citations issued for similar offenses and  
30 administered through the courts both in the two years prior to the  
31 ordinance and, if any, since enactment of the ordinance.

32 (5) A discussion of the effect of the ordinance on passenger  
33 behavior.

34 (6) A discussion of the effect of the ordinance on revenues to  
35 the entity described in subdivision (a) and, in consultation with  
36 the superior courts, the cost savings to the county courts. The  
37 superior courts are encouraged to collaborate on and provide data  
38 for this report.

39 SEC. 3. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because



1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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